



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

JRE  
Docket No: 93-01  
24 January 2002

Dear [REDACTED]

This is in reference to your application for correction of your late husband's naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 January 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your husband's naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this regard, the Board noted that in order to be eligible for disability benefits administered by the Department of the Navy, a service member must be unfit to perform the duties of his office, grade, rank or rating by reason of physical disability at the time of his separation or release from active duty. The Board was unable to conclude that your husband was unfit for duty on 12 April 1963, when he was released from active duty and transferred to the Naval Reserve. The fact that the Department of Veterans Affairs recently awarded him disability ratings for hearing loss (0%), tinnitus (10%), and residuals of a head injury (10%) is not probative of the existence of error or injustice in his Navy record, because the VA awarded those ratings without regard to the issue of his fitness for military service in 1963. The VA rates all conditions it classifies as "service connected", i.e., incurred in or aggravated by military service. It may award ratings at any time during a veteran's lifetime, and may raise or lower the ratings as warranted by the severity of the rated conditions. Ratings assigned by the military departments are fixed as of the date of separation or retirement.

In view of the foregoing, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director